

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-98200; File No. SR-ICC-2023-013)

August 22, 2023

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to ICC's Treasury Operations Policies and Procedures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4,<sup>2</sup> notice is hereby given that on August 15, 2023, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been primarily prepared by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise the ICC Treasury Operations Policies and Procedures ("Treasury Policy"). These revisions do not require any changes to the ICC Clearing Rules (the "Rules").

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICC proposes to revise its Treasury Policy. The purpose of the Treasury Policy is to articulate the policies and procedures used to support the ICC Treasury Department, which is responsible for daily cash and collateral management of margin and guaranty fund assets, including Client-Related Initial Margin assets. The proposed changes consist of clarifications and updates with respect to collateral asset haircuts, and additional details on ICC's foreign exchange conversion methods should British pound sterling ("GBP") cash need to be converted to another currency in the context of a Clearing Participant default. ICC believes that such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes effective following Commission approval of the proposed rule change. The proposed revisions are described in detail as follows.

ICC proposes to revise the 'Collateral Valuation' section of the Treasury Policy<sup>3</sup> to clarify the description of ICC's collateral valuation process across all collateral types. The ICC collateral valuation process is based on accurately and effectively pricing the assets posted as collateral and appropriately haircutting the assets for their native market risks (i.e., the risk of a decrease in value of the asset posted as collateral) as well as

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<sup>3</sup> Treasury Policy section V.B.2.

related cross-currency risk (i.e., the risk of the change in value of one currency as compared to the value of another currency) when the collateral is to be used to cover an obligation denominated in a different currency. All such proposed changes are non-material and clarifying, except for the haircut process for GBP cash posted as Client-Related Initial Margin<sup>4</sup> used to cover a Euro denominated product requirement. Currently, with respect to GBP cash used to cover a Euro denominated product requirement, ICC first converts the GBP cash value to its USD value. The USD value is haircut at the GBP currency haircut. Then, the EUR denominated product requirement is converted to the USD value. The resulting USD requirement is grossed up by the EUR currency haircut. The effect of the current approach is to haircut GBP cash margin twice, which ICC believes is unnecessary as a matter of risk management and inefficient.<sup>5</sup> Under the proposed changes, the value of GBP cash posted to cover a Euro denominated obligation will no longer be subjected to two currency haircuts. Rather, GBP cash posted to cover a Euro obligation, will first be converted to its Euro value and then haircut to capture the potential foreign exchange risk between GBP and Euro. ICC believes the proposed revised treatment of GBP cash posted to cover a Euro obligation is more efficient while still maintaining ICC's conservative collateral valuation practices.

Along with this specific change for GBP cash, relevant language in the Collateral Valuation section is being clarified and simplified to apply generally without need to

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<sup>4</sup> GBP cash currently is only accepted as Client-Related Initial Margin (a/k/a "Client Margin"). GBP cash collateral is not accepted by ICC with respect to (i) House Margin (i.e., margin posted by an ICC Clearing Participant to support their proprietary positions cleared at ICC) or (ii) General Guaranty Fund contributions.

<sup>5</sup> ICC recently completed a system change to modify its clearing system business logic so that it is no longer necessary from a systems standpoint for GBP cash posted to cover a EUR denominated to be subjected to two currency haircuts. Due to the completed system change, ICC is now in the position to propose this rule change to eliminate the inefficient double haircut.

refer to specific currencies. Thus, consistent with the above, the revised section would state generally that cash posted in one currency to cover an obligation denominated in another currency is first converted to its value in the currency of the obligation, and then haircut to capture the potential foreign exchange risk. References to specific currencies (which note for example that Euro and GBP cash used to cover a USD denominated product requirement are first converted to USD value and then the USD value is haircut) would be removed as they are unnecessary. Similarly, the revised section would state generally that cash posted to cover an obligation in the same currency will not be subject to a haircut, rather than include multiple currency specific statements to the same effect. ICC also is proposing non-material drafting changes to the description of the valuation process for collateral posted in the form of U.S. Treasuries. ICC is not proposing in those amendments to change the currencies that are currently accepted as margin or collateral.

Also, ICC proposes the addition of Section III.G., “Non-Committed FX Facility” to the Treasury Policy. Such proposed section would reflect that ICC has access to non-committed foreign exchange facilities with a diverse set of commercial counterparties. Such facilities may be used to convert one currency to another for same day settlement, on a non-committed basis. Such section would provide additional details with respect to Client-Related Initial Margin posted by Clearing Participants in GBP cash. The amendments would note that the circumstances where ICC would need to convert such GBP cash collateral to another currency are very narrow (as no ICC contracts are settled in GBP, and GBP would not be needed for daily settlement). In addition, such section would be amended to further note that as ICC accepts GBP cash collateral only with respect to Client-Related Initial Margin, and that use of Client-Related Initial Margin by

ICC in the context of a Clearing Participant default is very limited, the circumstances where ICC would need to covert GBP cash collateral into another currency is further limited. However, if the narrow circumstances did arise and ICC needed to convert GBP cash collateral to either USD or EUR in the context of a Clearing Participant default, ICC would use one of its existing non-committed foreign exchange arrangements to convert the GBP into the applicable currency.

Certain other typographical and similar non-substantive corrections are made throughout the Treasury Policy, including references to “haircuts.” Lastly, ICC proposes amending Appendix X., Revision History, to reflect the changes and approvals of the Treasury Policy.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>6</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions; to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible; and to protect investors and the public interest. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, Section 17(A)(b)(3)(F)<sup>7</sup>, because ICC believes that the proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, and contribute to the

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<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> Id.

safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible. As described above, the proposed rule change would make certain clarifications and updates to the Treasury Policy, in particular to avoid an unnecessary double haircut that currently applies to GBP cash posted to cover a Euro denominated obligation, which may currently disadvantage those customers of Clearing Participants that post such cash. The amendments would simplify and clarify the description of cross-currency haircuts generally, without need for references to specific currencies. The proposed updates would also add additional details on ICC's non-committed foreign exchange facilities, which would be used, among other purposes, if necessary to convert GBP cash posted as Client-Related Initial Margin to cover Euro or USD obligations. Taken together, the amendments promote overall clarity in the Treasury Policy regarding foreign exchange conversion and the cross-currency haircut process. The proposed updates thus ensure that the documentation of ICC's Treasury Policy remains up-to-date, transparent, and focused on clearly articulating the policies and procedures used to support ICC's treasury functions, which promotes the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, contributes to the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible, and generally promotes the protection of investors and the public interest. As such, the proposed rule changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act.<sup>8</sup>

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<sup>8</sup> Id.

Rule 17Ad-22(e)(5)<sup>9</sup> requires each covered clearing agency to “establish, implement, maintain, and enforce written policies and procedures reasonably designed to, as applicable . . . [l]imit the assets it accepts as collateral to those with low credit, liquidity, and market risks, and set and enforce appropriately conservative haircuts and concentration limits if [it] requires collateral to manage its or its participants’ credit exposure . . . .” As described above, ICC accounts for the risk associated with fluctuations in the value of collateral assets by applying haircuts under the Treasury Policy. The amendments would revise the cross-currency haircut applicable to GBP cash posted to cover Euro obligations to eliminate an unnecessary double haircut. ICC believes the amendments would result in a more efficient, yet appropriately conservative, haircut level for such GBP cash. The amendments would also make a number of other non-substantive revisions to clarify the discussion of cross-currency haircuts generally and ensure that the Treasury Policy remains effective and clear. As such, the amendments would satisfy the requirements of Rule 17Ad-22(e)(5).<sup>10</sup>

(B) Clearing Agency’s Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the amendments would revise the haircut applicable to GBP cash posed to cover Euro obligations to avoid a double haircut. ICC believes this change will improve efficiency and benefit market participants that may choose to post GBP cash as Client-Related Initial Margin. Other changes would generally improve the clarity of

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<sup>9</sup> 17 CFR 240.17Ad-22(e)(5).

<sup>10</sup> Id.

the Treasury Policy. The proposed changes to ICC's Treasury Policy will apply uniformly across all market participants. ICC does not believe the amendments would adversely affect the costs of clearing for market participants, or otherwise affect the ability of market participants to access clearing or the market for clearing services generally. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-ICC-2023-013 on the subject line.

Paper Comments:

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR-ICC-2023-013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 am and 3 pm. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at <https://www.theice.com/clear-credit/regulation>.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-ICC-2023-013 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>11</sup> 17 CFR 200.30-3(a)(12).